

ISSUE DATE: March 21, 1997

DOCKET NO. P-5442/NA-96-1523

ORDER GRANTING AUTHORITY, SUBJECT TO CONDITIONS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Edward A. Garvey
Joel Jacobs
Marshall Johnson
Mac McCollar
Don Storm

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of an Application of Frontier
Local Services, Inc. for a Certificate of
Authority to Provide Local Exchange and
Exchange Access Telecommunications
Services as an Alternative Local Carrier

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PROCEDURAL HISTORY

On November 27, 1996, Frontier Local Services, Inc., (FLSI or the Company) filed for a Certificate of Authority to provide local exchange and exchange access telecommunications services as an alternative local carrier. FLSI is an indirect, wholly-owned subsidiary of Frontier Corporation. FLSI is currently certified to provide local service in New York and California.

On December 19, 1996, U S WEST Communications, Inc. (USWC) filed a request for intervention.

On December 26, 1996, the Minnesota Department of Public Service filed comments recommending that the Commission grant FLSI's petition.

On December 27, 1996, USWC filed comments.

On January 6, 1997, FLSI filed reply comments.

The matter came before the Commission on March 11, 1997.

FINDINGS AND CONCLUSIONS

I. FLSI'S APPLICATION

FLSI submitted its application for a certificate of authority to provide local exchange and exchange access telecommunications service as an alternative local carrier, pursuant to Minn. Stat. § 237.16. The Company stated that it understood that all alternative local carriers who have been certified by the Commission have been certified conditionally and indicated its

acceptance of a limited or conditional certification.

FLSI stated that would initially offer its local services in the service territory of USWC and later expand its offerings into the territories of Sprint United Telephone Companies of Minnesota (United) and GTE Minnesota, Inc. (GTE). FLSI stated that it intended to offer the following services: local exchange, switched access and special intrastate access, and switched and special interstate access. As part of its local exchange service offering, FLSI stated that it intended to offer caller ID-name and number, call forwarding, speed calling, call waiting, call holding, three way calling, PBX trunks, direct inward dialing lines and trunks, local directory assistance, local operator services and 911 services to its end user customers, and switched and special access services. The Company stated that it might add other local and access service offerings depending on customer demand.

FLSI stated that it would provide services over a combination of its own facilities and/or by means of leased facilities and employ various technologies efficiently to deliver quality services.

The Company stated that it will not be able to detail the precise services it intends to provide nor the exact manner in which it will provide those services until it has entered into interconnection agreements with USWC.

Finally, FLSI provided information in support of its managerial, technical, and financial qualifications and argued that it was well poised to expand its local services operations to the State of Minnesota. The Company predicted that due to the wide range of experience found within the Frontier companies it will be able to offer a truly integrated service to its customers.

II. THE PARTIES' COMMENTS

A. The Department's Comments

The Department filed comments on December 26, 1996, recommending that the Commission approve FLSI's application for a certificate of authority pending Commission approval of any interconnection agreements between FLSI and USWC, the filing of service area maps, and Commission approval of a tariff listing applicable terms and conditions.

B. USWC's Comments

In comments filed December 27, 1996, USWC raised a number of issues, including the following:

- The Federal Telecommunications Act, (the Act) while removing barriers to entry, still permits states to apply as much of their regulatory structures as are consistent with the Act, and are on a competitively neutral basis. FLSI should be held to the same standards as USWC on dialing parity and interLATA and intraLATA toll subscription.

- FLSI must be required to comply with all applicable standards of Minn. Stat. Ch. 237. Some key areas that need to be applied are: justification of rates; nondiscriminatory treatment of customers; and rates being required to cover the incremental cost of service.

USWC stated that these issues are only illustrative and recommended that FLSI should be required to receive identical regulatory treatment as USWC. To do less, USWC argued, would be contrary to the intent embodied in the Act.

C. FLSI's Reply Comments

FLSI filed reply comments on January 6, 1997, responding to the comments filed by USWC. FLSI disagreed with USWC's interpretation of "competitively neutral" as referred to in the federal act. FLSI stated that it intends to comply with all applicable statutes, rules and directives of the Commission which are determined to apply to competitive local exchange carriers. The Company noted that its application specifically states that it will comply with local competition rules presently being developed.

FLSI argued that it will be required to, among other things, file appropriate tariffs with the Commission prior to providing service and that USWC will have the opportunity to fully comment on FLSI's specific service at that time.

III. COMMISSION ANALYSIS

The Commission has reviewed FLSI's application for authority to provide services pursuant to Minn. Stat. § 237.16. Based on its review of FLSI's application and supporting documentation, as well as all of the filed comments, the Commission agrees with the Department that FLSI does possess the technical, managerial and financial resources to provide local exchange services in Minnesota.

In response to USWC's comments, the Commission notes that FLSI has specifically acknowledged the jurisdiction of the Commission and relevant state statutes and rules. The Commission believes that local competition rulemaking will answer most of USWC's concerns and notes that FLSI's authority will be subject to those rules.

Perhaps more to the point of USWC's concern, however, the Commission intends to require FLSI to comply with all the statutes, rules and Commission directives which apply to competitive local exchange carriers (CLECs), no more and no less. At this time, this does not mean a level playing field in the sense of all providers of local service being required to fulfill exactly the same obligations regardless of whether they are just now entering the local market (CLECs) or are, like USWC, the incumbent local exchange carrier (ILEC). At this point in the development of local competition, the legislature clearly has not required that the playing field be leveled in that sense and it is the Commission's judgment that to do so at this time would not promote fair and reasonable competition for local exchange telephone services. See Minn.

Stat. § 237.16, subd. 16 (1996). It is likely that regulatory requirements for CLECs will be reassessed in the future as competition develops.

IV. COMMISSION ACTION

Accordingly, the Commission will approve FLSI's application and will do so subject to several conditions which are consistent with previous Commission decisions for granting local service authority to CLECs. The conditions are stated in Ordering Paragraph 2, below.

ORDER

1. The application of Frontier Local Services, Inc. (FLSI) for a certificate of authority to provide local exchange and exchange access telecommunications service as an alternative local carrier is conditionally approved.
2. The conditions attached to FLSI's certificate of authority are as follows:
 - a. FLSI's authority to provide local service is limited to exchanges where USWC is the incumbent local exchange carrier, pursuant to Minn. Stat. § 237.16.
 - b. FLSI shall file for an amended certificate of authority, and receive Commission approval pursuant to Minn. Stat. § 237.16, subd. 4 before expanding its local service area;
 - c. prior to providing local service, FLSI shall submit service area maps pursuant to Minn. Stat. § 237.16, subd. 3, and Minn. Rules 7810.0500 and to maintain such maps with the Department that show the exchanges where FLSI can actually provide local service;
 - d. prior to providing local service, FLSI shall submit to the Commission for approval any local service interconnection agreements negotiated with an incumbent local exchange carrier, pursuant to § 252(b)(4) of the Telecommunications Act of 1996;

- e. 90 days prior to providing local service, FLSI shall file a tariff for Commission approval that contains the rates and applicable terms and conditions for its local services; and
 - f. FLSI shall be subject to the rules arising from the rulemaking proceeding in Docket No. P-999/R-95-53.
 - g. FLSI shall add language in its tariff clarifying a customer's rights under dialing parity when the Company files its tariff.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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